



## NEW YORK CITY HOUSING AUTHORITY

## LAW DEPARTMENT

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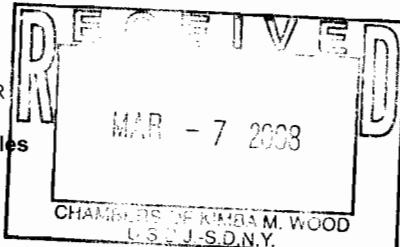
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ELECTRONICALLY FILED  
DOC #: \_\_\_\_\_  
DATE FILED: 3/10/08

WRITER'S DIRECT LINE  
212-776-5259

March 6, 2008

By Hand

The Honorable Kimba M. Wood  
Chief United States District Judge  
United States District Court  
Southern District of New York  
500 Pearl Street, Room 1610  
New York, New York 10007

**MEMO ENDORSED**

Re: *Gerard O'Neill v. Tino Hernandez, Ricardo Morales, and New York City Housing Authority,*  
08 CV 1437 (KMW)  
Request for extension of time within which to respond to complaint

Dear Chief Judge Wood:

I am an attorney with the New York City Housing Authority (NYCHA) Law Department, and I represent the defendants in the above-referenced matter. I write, with plaintiff's knowledge and consent, to respectfully request an extension of time to respond to the complaint until at least after the March 28, 2008 pretrial conference, as set forth in the Court's March 5, 2008 Scheduling Order. This is defendant's first such request.

Plaintiff Gerard O'Neill is a tenant at Douglass Houses, a NYCHA housing development located in Manhattan. On February 20, 2008, defendants filed a Notice of Removal removing plaintiff's state court action previously filed in the Supreme Court of the State of New York, County of New York, under New York County Index No. 400199/08. In his complaint, Mr. O'Neill alleges that NYCHA brought non-payment proceedings against him in 2005 and 2006 in violation of the Brooke Amendment (42 U.S.C. 1437a(a)(1)(A)); that a document was removed from his tenant folder; that his refusal to sign a third-party verification form giving permission for a NYCHA housing assistant to access a federal database to verify his income led to the non-payment proceedings; that, the day after a court appearance in which a State Court judge threatened to re-sign a pending eviction, four social workers from NYCHA knocked on his door unannounced and later telephoned him. Plaintiff asserts that defendants' alleged conduct violated the Brooke Amendment, Title VII of the Civil Rights Act of 1964, the Americans With Disabilities Act of 1990, the Rehabilitation Act of 1973 and the Fair Housing Act.

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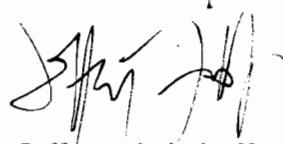
Chief Judge Kimba M. Wood  
March 6, 2008  
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After removal, the matter was referred to your chambers as possibly similar to a prior action filed by plaintiff bearing civil action number 06-CV-14377. On March 5, 2008, the Court issued a Scheduling Order setting a pretrial conference for March 28, 2008.

I am currently investigating this matter to determine whether a basis exists to make a motion pursuant to Rule 12(b) to dismiss the action either in whole or in part. Accordingly, I respectfully request an extension of time, at least until after the March 28, 2008 pretrial conference, to respond to the complaint, either by making a Rule 12(b) motion or filing an answer. I spoke with plaintiff by telephone earlier today to inform him that I would be sending a letter to the Court to request such an extension of time. Plaintiff consents to the extension of time sought by defendants.

Thank you for your consideration of this request.

Respectfully,



Jeffrey Niederhoffer (JN 1942)

c: Gerard O'Neill  
870 Columbus Avenue, Apt. # 3C  
New York, New York 10025  
(by first class mail)

Defendants shall respond to the complaint, either by making a Rule 12(b) motion or filing an answer, no later than April 11, 2008.

**SO ORDERED, N.Y., N.Y. 3-7-08**

Kimba M. Wood

**KIMBA M. WOOD  
U.S.D.J.**